

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KERRY L. BAKER,

Defendant.

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8:01CR261

MEMORANDUM AND ORDER

This matter is before the court on defendant's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a person in Federal Custody (§ 2255 motion) (Filing No. 180). In part 2 of the motion defendant raises three additional issues which the court intended to order the government to address in its answer: (1) that defendant's Fifth Amendment rights were violated; (2) that the trial court erred when the court allowed hearsay testimony by co-conspirators; and (3) that he was charged twice for possession of a firearm in Counts II and III in the same indictment.

The government shall have until May 19, 2006, to supplement its answer and address these issues, in addition to any other issues raised. The United States shall address whether this claim is barred by procedural default, waiver, or untimeliness.

IT IS ORDERED:

1. That the government shall have until May 19, 2006, to address the additional issues raised in defendant's § 2255.

2. That by June 19, 2006, the defendant may file a reply responding to the government's supplemented answer.

DATED this 19th day of April, 2006.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge